

President Biden's U.S. Circuit Court Nominees (as of August 31, 2021): Overview and Comparative Analysis

September 16, 2021

This Insight provides, as of August 31, 2021, demographic and other background information related to President Biden's U.S. circuit court nominees. It also provides comparative historical data for the U.S. circuit court nominees of his three immediate predecessors (Presidents Trump, Obama, and George W. Bush).

A [circuit court](#) determines whether or not the law was applied correctly by a [trial court](#) or by a federal administrative agency. A President's nominees to U.S. circuit court vacancies have often been of particular interest to the Senate given that circuit courts are often the first and [final level of appeal for many cases heard in the federal judicial system](#) (barring a [relatively rare decision by the U.S. Supreme Court](#) to accept an appeal to review a decision by a circuit court).

Nomination Opportunities

Each of the Presidents included in the analysis "inherited" U.S. circuit court [vacancies](#) that existed prior to him assuming office on January 20. Such vacancies also continued to occur after his term in office began. Consequently, each President had opportunities to submit circuit court nominations to the Senate during the first year of his presidency. At least a couple of months typically have passed between [the start of a new presidency](#) and when a President submits his first circuit court nomination to the Senate.

President Biden's Circuit Court Nominations

As of August 31, 2021, President Biden has nominated a total of 10 circuit court nominees (4 of whom were also confirmed by the Senate prior to August 31). Of the 10 nominees, 8 (80%) are women. Additionally, 7 (70%) of the 10 are nonwhite nominees (see the note accompanying **Figure 1** for further information). [One of President Biden's nominees](#), if confirmed, would also be the first openly LGBT woman appointed to a federal circuit court.

President Biden [has emphasized](#) his desire to nominate individuals to federal judgeships who have professional experience as public defenders or certain other types of professional experiences that have

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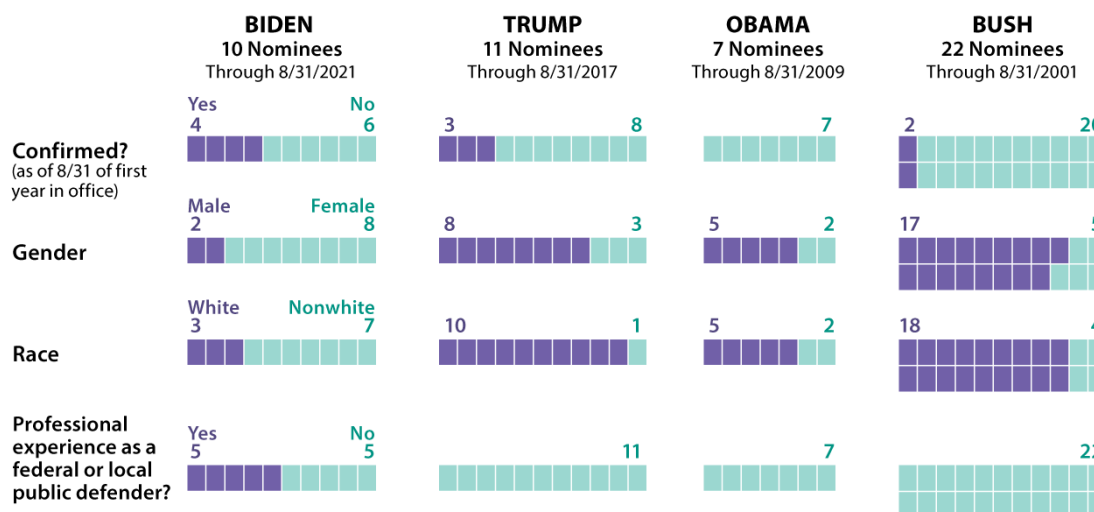
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been historically rare for federal judicial nominees to possess (e.g., experience as a civil rights attorney). Along these lines, of President Biden’s 10 circuit court nominees, 5 have professional experience working as a federal or local public defender. Additionally, [at least one circuit court nominee](#) has experience as a voting rights attorney, and [at least one other nominee](#) has experience as a labor attorney.

Comparison with Three Most Recent Predecessors

Of the three other Presidents included in **Figure 1**, President Biden nominated fewer circuit court nominees by August 31 of his first year in office than two other Presidents (specifically, President Trump nominated 11 and President Bush nominated 22). President Biden, though, also had, among the four Presidents, the most circuit court nominees confirmed by August 31 of each President’s first year in office.

Figure 1. Comparison of U.S. Circuit Court Nominees During Selected Presidencies (January 20 Through August 31 of First Year in Office)



Source: Congressional Research Service analysis of data provided by various news sources, [Congress.gov](#), and the [Biographical Directory of Federal Judges](#).

Note: For the purposes of this Insight, Hispanic nominees are included in the nonwhite category. Note, though, that individuals who identify as Hispanic or Latino may be of any race.

Among the four presidencies included in **Figure 1**, President Biden is the sole President for whom a majority of his circuit court nominees (as of August 31 of his first year in office) were women. President Biden is also the sole President among the four for whom a majority of his circuit court nominees were persons of color. Additionally, he is the only President among the four who nominated (at least prior to August 31 of each President’s first year in office) individuals who had worked as federal or local public defenders.

Additional Comparative Information

ABA Ratings

Of President Biden’s 10 circuit court nominees who were nominated prior to August 31, 2021, the [American Bar Association’s Standing Committee on the Federal Judiciary](#) rated 7 nominees as “Well Qualified,” 2 as “Qualified,” and 1 nominee has yet to be rated as of August 31.

Of President Trump's 11 circuit court nominees nominated prior to August 31, 2017, 9 were rated as "Well Qualified," 1 as "Qualified," and 1 as "Not Qualified."

Of President Obama's seven nominees nominated prior to August 31, 2009, six were rated as "Well Qualified," and one was rated as "Qualified."

Of President Bush's 22 nominees nominated prior to August 31, 2001, 13 were rated as "Well Qualified," and 9 were rated as "Qualified."

Party Affiliation of Appointing President of Departed Judge

Of President Biden's 10 circuit court nominees who were nominated prior to August 31, 2021, 7 were nominated to fill vacancies created by departed judges who were nominated by Democratic Presidents, and 3 were nominated to fill vacancies created by departed judges who were nominated by Republican Presidents.

Of President Trump's 11 circuit court nominees who were nominated prior to August 31, 2017, 5 were nominated to fill vacancies created by departed judges who were nominated by Democratic Presidents, and 6 were nominated to fill vacancies created by departed judges who were nominated by Republican Presidents.

Of President Obama's seven circuit court nominees who were nominated prior to August 31, 2009, four were nominated to fill vacancies created by departed judges who were nominated by Democratic Presidents, and three were nominated to fill vacancies created by departed judges who were nominated by Republican Presidents.

Of President Bush's 22 circuit court nominees who were nominated prior to August 31, 2001, 5 were nominated to fill vacancies created by departed judges who were nominated by Democratic Presidents, 16 were nominated to fill vacancies created by departed judges nominated by Republican Presidents, and 1 was nominated to fill a vacancy for a new judgeship authorized by Congress.

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